

*Application No. 10/628998*  
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*Amendment*  
*Attorney Docket No. S63.2B-10692-US01*

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**Remarks**

This Amendment After Final is in response to the Final Office Action dated May 31, 2006. In the Final Office Action, claims 1-8, 12-13, 17-18, 20-21, 24-25 and 33-38 were rejected under 35 USC 103(a) as being unpatentable over Danforth (4,822,345) in view of Samuelson (6,464,683) and claims 22-23 were objected to as being dependent upon a rejected base claim.

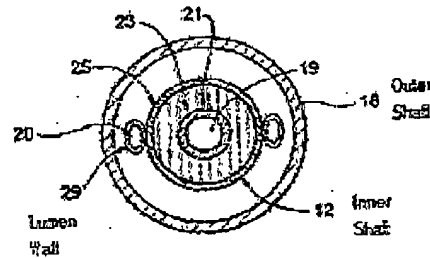
The paragraphs below correspond to those of the Office Action.

**35 USC 103(a)**

In the Office Action, claims 1-8, 12-13, 17-18, 20-21, 24-25 and 33-38 were rejected under 35 USC 103(a) as being unpatentable over Danforth (4,822,345) in view of Samuelson (6,464,683). Independent claim 1 recites "the catheter comprising *an inner shaft* constructed of at least three layers, *a lumen wall, an outer shaft*, and at least one heat transmitting mechanism, the at least one heat transmitting mechanism comprising at least one fluid transmission lumen defined by the lumen wall, *the lumen wall positioned between the inner shaft and the outer shaft*" (emphasis added). The elements of instant independent claim 1 are illustrated, for example, in Fig. 4, shown below.

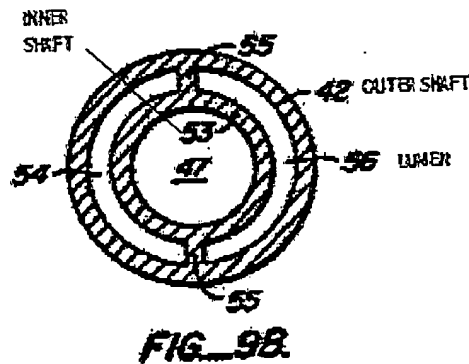
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**Fig. 4**

As shown in Fig. 4 of the instant application, the catheter has an inner shaft 12, an outer shaft 18, and lumen 20 defined by lumen wall 29. The lumen wall 29 is between the inner shaft 12 and the outer shaft 18, as recited in instant independent claim 1. Applicant asserts that Danforth does not teach or suggest a lumen wall let alone a lumen wall positioned between the inner shaft and the outer shaft, as recited in instant independent claim 1. To aid the discussion, an annotated copy of Fig. 9B of Danforth is provided below.



**FIG. 9B**

The Office Action states that "Danforth discloses a catheter (20), an inner shaft (53) and an outer shaft (42) and a heat transmitting mechanism (lumen 56). Lumen (56) is

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defined by the inside wall of outer shaft (42) and the outside wall of inner shaft (53); therefore, the lumen wall is between the confines of the inner shaft and the outer shaft." As shown in Fig. 9B of Danforth, above, the catheter of Danforth does not have a lumen wall, separate from the inner shaft and the outer shaft and between the inner shaft and the outer shaft, as recited in instant independent claim 1. Therefore, Danforth does not teach or suggest all the elements of instant independent claim 1.

Adding the inner shaft having three layers of Samuelson to Danforth does nothing to address the failure of Danforth to teach or suggest all the elements of instant independent claim 1 from which claims 2-8, 12, 13, 17-18, 20-21, 24-25 and 33-38 depend. For at least this reason, claims 1-8, 12, 13, 17-18, 20-21, 24-25 and 33-38 are in condition for allowance.

#### **Allowable Subject Matter**

In the Office Action, claims 9-11, 15-16, 22-23 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Based on the argument above, Applicant believes claims 9-11, 15-16, 22-23 are in condition for allowance in their present form.

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**Conclusion**

In light of the above comments, claims 1-13, 15-18, 20-25 and 33-38 are in condition for allowance. Notification to that effect is respectfully requested.

Respectfully submitted,

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